

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON  
PORTLAND DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOSEPH OQUENDO SALADINO,  
MARCEL ROY BENDSHADLER,  
MICHAEL SEAN MUNGOVAN,  
and RICHARD J. ORTT,

Defendants.

Civil No. 07-535-BR

ORDER

BROWN, Judge.

On November 23, 2009, a jury in this Court found Defendant Michael Sean Mungovan guilty of Conspiracy to Defraud the United States in violation of 18 U.S.C. § 371. A sentencing hearing for Defendant Mungovan is currently scheduled for July 28, 2010.

On June 23, 2010, Defendant Mungovan submitted a packet of some 450 pages of *pro se* documents for filing in this action.<sup>1</sup> Because the Court previously advised Defendant Mungovan in a February 25, 2008, Order that no further *pro se* documents would be accepted, the documents were not entered in the Court record.

The documents submitted by Defendant Mungovan purported to challenge the authority of this Court to adjudicate the criminal charge against Defendant Mungovan and purported to state "third party claims" against numerous government officials. On July 15, 2010, Chief Judge Aiken issued an Order (#411) rejecting Defendant Mungovan's attempts to state any third party claims.

On June 28, 2010, following Defendant Mungovan's submission of *pro se* documents, his court-appointed counsel filed a Motion to Withdraw. The Motion to Withdraw and the issue of the *pro se* filings were set for hearing before the Court on July 16, 2010.

On July 16, 2010, prior to the time set for hearing on the matters of the Motion to Withdraw and the remainder of Defendant Mungovan's *pro se* filings, Defendant Mungovan submitted to this Court a document entitled "Notice of Withdrawal of All Previously

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<sup>1</sup>The documents are virtually identical to a set of *pro se* documents submitted by co-Defendant Joseph Oquendo Saladino on June 21, 2010. Defendant Saladino's documents were considered and rejected by this Court at hearing on June 30, 2010, and are the subject of a June 30, 2010, Order (#394) issued by the Honorable Ann Aiken, Chief District Judge, and a July 7, 2010, Order (#400) by this Court.

Filed Pleadings, Forthwith." In it, Defendant Mungovan recognizes the inappropriate nature of his *pro se* filings, and formally "withdraws" them. As such, the "Notice of Withdrawal of All Previously Filed Pleadings, Forthwith," renders MOOT Defendant Mungovan's *pro se* arguments purporting to challenge this Court's jurisdiction over the criminal action.

With respect to Counsel's Motion to Withdraw, at hearing on the matter on July 16, 2010, Defendant Mungovan expressed his disagreement with some of the trial strategies of his attorney and his co-defendants' attorneys. The Court explained that these issues are matters the Defendant may raise pursuant to 28 U.S.C. § 2255, only after entry of judgment of conviction and any adverse appellant adjudication. The Court further explained the importance of skilled counsel to represent Defendant in the forthcoming sentencing proceedings and assured Defendant Mungovan of his right to allocution at sentencing.

After inquiry from the Court, Defendant Mungovan expressed his reluctant willingness to work with his attorney at sentencing. Although counsel expressed some concern, the Court finds no basis identified by Defendant Mungovan or Counsel which would warrant withdrawal at this stage of the proceedings, some 13 days prior to sentencing, particularly in light of the months-long delay since the entry of the jury's verdict. As such, the Motion to Withdraw is DENIED.

**CONCLUSION**

For these reasons, Defendant Mungovan's *pro se* arguments challenging the authority of this Court to adjudicate the criminal charge against him are found MOOT. Nonetheless, the Clerk of the court is DIRECTED to conventionally file the *pro se* documents submitted by Defendant Mungovan on June 23, 2010, as the Court's "Exhibit 2," and place them in the official Court file. The Clerk of the Court is further DIRECTED to electronically file Defendant Mungovan's "Notice of Withdrawal of All Previously Filed Pleadings, Forthwith," which he submitted this date.

IT IS FURTHER ORDERED that the Motion to Withdraw (#393) is DENIED.

IT IS SO ORDERED.

DATED this \_\_\_\_\_ day of July, 2010.

/s/

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ANNA J. BROWN

United States District Judge